

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

TOMMY ROY KEETON,

Plaintiff, No. CIV S-04-0758 GEB EFB P

vs.

FORSYTHE, et al.,

Defendants. ORDER

Plaintiff is a prisoner without counsel seeking relief for civil rights violations. *See* 42 U.S.C. § 1983. On April 17, 2007, defendants filed a motion to dismiss this action upon the ground that plaintiff failed to exhaust available administrative remedies prior to filing suit. *See* Fed. R. Civ. P. 12(b); 42 U.S.C. § 1997e(a). Plaintiff has not responded.

On June 4, 2007, the court found that plaintiff failed to file an opposition or a statement of no opposition to defendants' motion and directed him to do so within 20 days. The court also warned plaintiff that failure to follow this court's orders or the Local Rules of this Court could result in dismissal. On July 31, 2007, after plaintiff again failed to file an opposition or statement of no opposition, the court recommended that this action be dismissed without prejudice. On August 24, 2007, plaintiff requested an extension of time in which to file his opposition to defendants' motion to dismiss, asserting that his "lack of access to his legal work"

1 and lack of law library access interfered with his ability to file an opposition to defendants'
2 motion to dismiss. The court will accommodate plaintiff with one more opportunity to file an
3 opposition or statement of no opposition to defendants' motion to dismiss. There shall be no
4 further extensions of his time to do so.

5 Accordingly, it is ORDERED that:

- 6 1. The July 31, 2007, findings and recommendations are vacated; and
7 2. Plaintiff has 21 days from the date this order is served to file an opposition to
8 defendants' motion to dismiss. Failure to file an opposition to defendants' motion to dismiss
9 will result in a recommendation that this action be dismissed.

10 Dated: October 12, 2007.

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12 EDMUND F. BRENNAN
13 UNITED STATES MAGISTRATE JUDGE
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